

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RUTH DUARTE,

Plaintiff,

- against -

ST. BARNABAS HOSPITAL,

Defendant.

15-CV-6824 (PGG)

**PROPOSED AMENDED JOINT PRE-
TRIAL ORDER – BENCH TRIAL ON
PLAINTIFF’S WHISTLEBLOWER
RETALIATION CLAIMS ASSERTED
IN THE FIFTH AND SIXTH CAUSES
OF ACTION**

The parties having conferred among themselves and with the Court pursuant to Fed. R. Civ. P. 16, the following statements, directions and agreements are adopted as the Amended Pre-trial Order herein for the bench trial on Plaintiff’s whistleblower retaliation claims asserted in the Fifth and Sixth Causes of Action.

I. TRIAL COUNSEL

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II. BASIS FOR SUBJECT MATTER JURISDICTION

Plaintiff's remaining claims are brought pursuant to, *inter alia*, 42 U.S.C. § 2000e *et seq.* and 42 U.S.C. § 12101 *et seq.* Accordingly, this Court has original and subject matter jurisdiction over Plaintiff's case in its entirety pursuant to 28 U.S.C. §§ 1331. The state law claims at issue during this proceeding are brought pursuant to New York Labor Law ("NYLL") §§ 740, 741, and 215. This Court, may, in its discretion, exercise supplemental and/or ancillary jurisdiction over Plaintiff's NYLL claims pursuant to 28 U.S.C. § 1367.

Defendant agrees that the Court has subject matter jurisdiction over this Action.

III. SUMMARY OF CLAIMS AND DEFENSES TO BE TRIED

(a) Plaintiff's Statement:

Plaintiff, Ruth Duarte ("Plaintiff" or "Duarte"), was employed by Defendant St. Barnabas Hospital ("Hospital" or "SBH") as a Clinician in the Fordham Tremont Community Mental Health Center's Reverend David Casella Children's Services Program ("DCCS") from July 2007 until August 2014.

Duarte commenced this action asserting the following causes of action against SBH:

- (i) Disparate treatment and hostile work environment on the basis of Duarte's national origin, race, gender, and disability in violation of the Americans with Disabilities Act ("ADA") 42 U.S.C. § 12101 *et seq.*, Title VII of the Civil Rights Act of 1964 ("Title VII") 42 U.S.C. § 2000e *et seq.*, as amended, the New York State Human Rights Law ("SHRL") N.Y. Exec.

Law § 296 *et seq.*, and the New York City Human Rights Law (“CHRL”) N.Y. Admin. Code, § 8-101 *et seq.*;

- (ii) Failure to properly pay wages and overtime compensation in violation of the Fair Labor Standards Act (“FLSA”) 29 U.S.C. §§ 201-219, and the New York Labor Law (“NYLL”);
- (iii) Whistleblower Retaliation in violation of the NYLL § 740/741/215;
- (iv) Interference and Retaliation in violation of the Family and Medical Leave Act (“FMLA”), 29 U.S.C. § 2601 *et seq.*; and
- (v) Failure to provide a reasonable accommodation in violation of the SHRL and CHRL.

The following claims have been previously dismissed and/or withdrawn:

- (i) Disparate treatment and hostile work environment on the basis of gender in its entirety;
- (ii) Disparate treatment and hostile work environment on the basis of race in its entirety;
- (iii) Disparate treatment on the basis of Duarte’s national origin in their entirety;
- (iv) Disparate treatment on the basis of Duarte’s disability in their entirety;
- (v) Retaliation for complaints of discrimination under Title VII, the ADA, the SHRL, and the CHRL;
- (vi) Unpaid overtime and wage claims in their entirety; and
- (vii) Interference and Retaliation claims under the FMLA;

Thus, the following claims are to be tried and determined by the Court:

- (i) Whether Plaintiff can prove by a preponderance of the evidence that she, in good faith, complained to SBH about what she reasonably believed to be an improper quality of patient care?
- (ii) Whether Plaintiff can prove by a preponderance of the evidence that the Hospital knew or should have known of Plaintiff’s complaints of fraudulent billing pursuant to New York Labor Law 740?

- (iii) Whether Plaintiff can prove by a preponderance of evidence that the Hospital knew or should have known of Plaintiff's complaints of improper quality of care pursuant to New York Labor Law 741?
- (iv) Whether Plaintiff can prove by a preponderance of evidence that the hospital knew or should have known of Plaintiff's complaints of unlawful employment practices pursuant to New York Labor Law 215?
- (v) Whether Plaintiff can prove by a preponderance of the evidence that Plaintiff was retaliated against for complaining about SBH's improper quality of care?
- (vi) Whether Plaintiff can prove by a preponderance of the evidence that Plaintiff was retaliated against for complaining about SBH's fraudulent billing practices?
- (vii) Whether Plaintiff can prove by a preponderance of the evidence that Plaintiff was retaliated against for complaining about SBH's unlawful employment practices?
- (viii) Whether Defendant can prove by a preponderance of the evidence that Plaintiff intentionally engaged in terminable conduct, which was unknown to Defendant at the time of Plaintiff's termination of employment and discovered after Plaintiff's termination?
- (ix) Whether Plaintiff can prove by a preponderance of the evidence that any alleged non-retaliatory reasons for her adverse employment actions, including her termination, were mere pretext for retaliation?

Plaintiff alleges that she was subjected to retaliation in the form of, among other things, disciplinary action, suspension of employment, and ultimately terminated from employment. Plaintiff intends to prove her claims at trial through, among other evidence, testimony of several former and current employees of SBH who can testify as to the Hospital's fraudulent billing practices and improper patient care, Plaintiff's opposition thereto, and the unfavorable treatment Plaintiff received as a result.

Moreover, Plaintiff will show that she did not intentionally or knowingly violate any of Defendant's policies, including but not limited to taking without authorization patient records in violation of HIPAA and thus Defendant's "after acquired evidence" defense is inapplicable.

Accordingly, Plaintiff maintains she is entitled to the entry of judgment in her favor on her whistleblower retaliation claims, along with her costs, reasonable attorneys' fees and such other and further relief as the Court deems appropriate.

(b) Defendant's Statement:

Defendant St. Barnabas Hospital ("Hospital" or "SBH") is a New York State not-for-profit hospital that provides state-of-the-art inpatient, ambulatory and preventative care in all areas of medicine at various campuses in the New York City area. Plaintiff Ruth Duarte is a former Clinician of Fordham Tremont Community Mental Health Center's Reverend David Casella Children's Services Program ("DCCS"), which is affiliated with the Hospital. On August 6, 2014, the Hospital terminated Duarte's employment at DCCS for falsifying patient records.

Duarte commenced this action asserting the following claims against SBH: (1) disparate treatment and hostile work environment discrimination based on her national origin, disability, race and gender under Title VII of the Civil Rights Act of 1964 ("Title VII"), 42 U.S.C. § 2000e *et seq.*, as amended, the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12101 *et seq.*, the New York State Human Rights Law ("NYSHRL"), N.Y. Exec. Law § 296 *et seq.* and the New York City Human Rights Law ("NYCHRL"), N.Y. Admin. Code, § 8-101 *et seq.*; (2) retaliation under Title VII, the ADA, and the NYCHRL; (3) interference and retaliation under the Family and Medical Leave Act ("FMLA"), 29 U.S.C. § 2601 *et seq.*; (4) whistleblower retaliation in violation of New York Labor Law ("NYLL") § 741; and (5) unpaid wage and overtime claims pursuant to the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, and NYLL.

The Court previously dismissed Duarte's claims for (1) disparate treatment discrimination under Title VII, the ADA, the NYSHRL and the NYCHRL; (2) hostile work environment under Title VII, the NYSHRL and the NYCHRL, to the extent those claims are premised on gender or race; (3) NYSHRL retaliation; and (4) FMLA interference and retaliation. (*See* Memorandum Opinion & Order dated September 13, 2017, Docket No. 57 ("9/13/17 Memo & Order")). Duarte's claims for unpaid wages and overtime compensation under the FLSA and NYLL were dismissed without prejudice, given her status as an opt-in plaintiff in *Khansari v. St. Barnabas Hospital*, No. 15 Civ. 1803 (PGG). (*See* 9/13/17 Memo & Order; *see also* Docket No. 45). Duarte's hostile work environment claims under Title VII, the ADA, the NYSHRL and the NYCHRL, to the extent they are premised on national origin and disability, are to be tried separately to a jury; the parties have submitted a separate Proposed Joint Pre-Trial Order for the jury trial on those claims. By Stipulation and Order dated December 28, 2017, Duarte voluntarily withdrew her demand for a jury trial on her NYLL § 741 whistleblower retaliation claims, and the parties agreed that the trial should be bifurcated such that the Court decides Duarte's whistleblower retaliation claims under NYLL § 741 asserted in the Fifth and Sixth Causes of Action of the Complaint. (Dkt. 64).

The issues to be tried to the Court are as follows:

1. Whether Duarte can prove by a preponderance of the evidence that she, in good faith, complained to SBH about patient treatment practices that she reasonably believed compromised quality of patient care at the Hospital, as required under New York Labor Law § 741?
2. Whether Duarte can prove by a preponderance of the evidence that SBH retaliated against her by disciplining her or terminating her employment for complaining about the Hospital's patient treatment practices in violation of New York Labor Law § 741?
3. Whether Duarte can prove by a preponderance of the evidence that she is entitled to receive to compensation for her lost wages or benefits she claims to have suffered as a result of the retaliation?

The Hospital denies that it retaliated against Duarte. The evidence will show that Duarte never engaged in any protected activity during her employment with the Hospital within the meaning of NYLL § 741, nor that there was any causal connection between any complaint she claims to have made and any acts taken by the Hospital with respect to her employment. The evidence will also establish that (i) the Hospital had legitimate, non-retaliatory grounds to discipline Duarte and ultimately terminate her employment and (ii) these reasons were not pretext for retaliation.

The Hospital also asserts an after-acquired evidence defense. During discovery, Duarte produced Hospital documents – specifically, notes of supervisory meetings and emails that contain private and confidential patient information – that should not have been in her possession. Although the parties dispute how Duarte came to possess these documents, she has admitted knowing that she had such documents in her possession and failing to take any action to return them, well before this Action was filed. SBH will establish that this after acquired evidence provides a separate and independent ground for terminating Duarte’s employment, which therefore terminates her eligibility for back pay as of the date of the discovery of the after-acquired evidence.

Accordingly, the Hospital requests the dismissal of all Duarte’s whistleblower retaliation claims and the entry of judgment in its favor, along with its costs, reasonable attorneys’ fees and such other and further relief as this Court deems appropriate.

IV. DAMAGES

Pursuant to NYLL §§ 740/741 and NYLL § 215, Plaintiff seeks reinstatement, backpay, compensation for lost benefits, attorneys' fees, costs, and disbursements in an amount to be determined by the Court.

By Stipulation and Order dated December 28, 2017, Duarte voluntarily withdrew her demand for compensatory damages, punitive damages, declaratory judgment and any relief awarded on her NYLL § 741 whistleblower retaliation claims asserted in the Fifth and Sixth Causes of Action. (Dkt. 64). Plaintiff specifically reserved her right to seek any relief provided by NYLL §§ 740 or 741.

V. JURY/NON-JURY

By Stipulation and Order dated December 28, 2017, Duarte voluntarily withdrew her demand for a jury trial on her Fifth and Sixth Causes of Action, and the parties agreed that the trial should be bifurcated such that the Court decides Duarte's claims of whistleblower retaliation asserted in the Fifth and Sixth Causes of Action of the Complaint.¹

The parties estimate that the trial will take two (2) to three (3) days. The parties do not consent to the trial of the case by a magistrate judge.

VI. STIPULATED FACTS

The parties stipulate to the following facts:

1. New York State regulations known as "Part 599" define services, financing and program rules for mental health clinic treatment programs, like DCCS, and set forth

¹ Duarte has demanded a jury trial for all of the issues relating to her claims for hostile work environment under Title VII, the ADA, NYSHRL and NYCHRL. The parties have submitted a separate joint proposed pre-trial order for the jury trial of Plaintiff's claims of hostile work environment. *See* Docket No. 79.

- guidelines for patient records, including progress notes, treatment plans and treatment plan reviews (“TPRs”).
2. Part 599 also identifies procedure codes for the services provided by clinicians.
 3. Part 599 was amended in 2012 (2012-11 N.Y. St. Reg. 20 (effective Mar. 14, 2012)).
 4. At all relevant times, Edgardo Quinones (“Quinones”) was the Director of DCCS.
 5. At all relevant times, Milagros Arce (“Arce”) was the Assistant Director of DCCS.
 6. On July 7, 2007, the Hospital hired plaintiff Ruth Duarte (“Duarte”) as a clinician in DCCS.
 7. As a clinician, Duarte treated minor patients and provided mental health services, treatment and therapy sessions to minor patients who came in to DCCS.
 8. When a minor patient was referred to Duarte, one of her responsibilities was to conduct an intake, which included interviewing the patient and gathering, analyzing and evaluating data collected relating to the patient’s psychosocial problems, current mental status and functioning (referred to as a “biopsychosocial”).
 9. Among other responsibilities, Duarte also was responsible for identifying and then providing the appropriate therapeutic services, whether on an individual therapy session, family therapy session, collateral therapy session or group therapy session basis.
 10. Duarte was responsible for scheduling her own patient sessions and reaching out to patients and their families to follow up on scheduled appointments.
 11. All clinicians have a target “level of service” of forty (40) face-to-face patient contacts of at least thirty (30) minutes each week, which can include one-on-one therapy sessions with the individual patient (an “individual” session); group therapy

sessions; and meetings with a patient's family members with or without the patient (a "family" session or "collateral" session, respectively).

12. A progress note must be completed for every face-to-face contact with a patient.
13. Progress notes must be completed by noon the day after the clinician meets with the patient.
14. Every ninety days, clinicians must review and update the treatment plan for each patient and create a treatment plan review ("TPR") based on their assessment of the patient, which contains the patient's diagnosis, summary of services, and goals and objectives for the patient. (14 NYCRR 599.10(i)-(j)).
15. Around June 2013, the Hospital implemented Electronic Medical Records ("EMR") software that permitted clinicians to (among other things) record treatment plans and progress notes electronically.
16. Duarte attended weekly supervision meetings in which she discussed cases, identified patient issues and potential discharges, reviewed levels of service, and reviewed progress notes and TPRs with a supervisor.
17. Following a supervisory meeting between Duarte and Arce on November 5, 2013, Arce implemented an action plan that Duarte would: (1) schedule twelve patients per day; (2) receive more intake time to build up her case load; and (3) have her computer replaced so that Duarte could complete her paperwork more efficiently.
18. On August 6, 2014, the Hospital terminated Duarte's employment.
19. The reason given by the Hospital to Duarte for the termination was that she falsified patient records.

VII. PLAINTIFF'S WITNESS LIST

The following is a list of witnesses Plaintiff may call in its case-in-chief. Each witness listed will testify in person.

1. Ruth Duarte, Plaintiff;
2. Milagros Arce-Tomala, then Assistant Director of the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
3. Edgardo Quinones, former Director of the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
4. Wayne Webb, Assistant Vice President of Human Resources at St. Barnabas Hospital;
5. Rosa Torres, Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
6. Carmen Lopez, former Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
7. Michael Gonzalez, former Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
8. Sylvia Dolman, former Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
9. Joseph Norris, Union Organizer of 1199SEIU, United Healthcare Workers East;²
10. Rita Russell, then Administrative Assistant in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital;
11. Marcie Van Hoven, Plaintiff's former Union Representative;³

² Defendant objects to Plaintiff's designation of Joseph Norris as a witness on the ground that he has no testimony of probative value to offer.

12. Patricia Small, former Director of the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital⁴

Duarte reserves the right to introduce the deposition testimony of Milagros Arce-Tomala, Rosa Torres, Edgardo Quinones, and Wayne Webb to the extent inconsistent with their trial testimony or needed to prove Plaintiff's case-in-chief. Additionally, Plaintiff reserves the right to introduce the deposition testimony of Edgardo Quinones, Sylvia Dolman, and Michael Gonzalez, taken in the matter Khansari v. St. Barnabas Hospital, No. 15 Civ. 1803 (PGG).

Additionally, Duarte also reserves her right to call any witness identified by SBH and to call additional witnesses for rebuttal purposes, if necessary.

VIII. DEFENDANT'S WITNESS LIST

The following is a list of witnesses SBH may call in its case-in-chief.⁵

1. Milagros Arce-Tomala, then Assistant Director of the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital
2. Edgardo Quinones, former Director of the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital
3. Cassandra Andrews-Jackson, Compliance Officer, St. Barnabas Hospital⁶

³ Defendant objects to Plaintiff's designation of Marcie Van Hoven as a witness on the ground that she has no testimony of probative value to offer.

⁴ Defendant objects to Plaintiff's designation of Patricia Small as a witness on the ground that she has no testimony of probative value to offer.

⁵ Defendant will be responding to Plaintiff's objections listed in footnotes 4 through 8, *supra*, in its opposition to Plaintiff's Motion *in Limine* filed at Docket No. 65 and other motion Plaintiff may file to preclude these witnesses.

⁶ Plaintiff objects to Defendant's designation of Cassandra Andrews-Jackson as a witness. In violation of Rule 26 of the Federal Rules of Civil Procedure, Defendant never previously disclosed Ms. Andrews-Jackson as a potential witness in either SBH's Initial Disclosures or in Defendant's Interrogatory Responses and has provided no indication of what Ms. Andrews-

4. Michael Martin, Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital⁷
5. Denise Ruiz, Receptionist in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital
6. Rita Russell, then Administrative Assistant in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital⁸
7. Michael Gonzalez, former Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital⁹
8. Sylvia Dolman, former Clinician in the Children's Services program, Fordham Tremont Community Mental Health Center, Reverend David Casella Children's Services Program, St. Barnabas Hospital¹⁰

Jackson will testify about, nor has Defendant provided contact information for this witness, as required under Rule 26. Plaintiff intends to file a motion *in limine* to preclude any testimony by Ms. Andrews-Jackson in Defendant's case-in-chief.

⁷ Plaintiff objects to Defendant's designation of Michael Martin as a witness. In violation of Rule 26 of the Federal Rules of Civil Procedure, Defendant never previously disclosed Mr. Martin as a potential witness in either SBH's Initial Disclosures or in Defendant's Interrogatory Responses and has provided no indication of what Mr. Martin will testify about, nor has Defendant provided contact information for this witness, as required under Rule 26. Plaintiff has filed a motion *in limine* to preclude any testimony by Mr. Martin in Defendant's case-in-chief.

⁸ Plaintiff objects to Defendant's designation of Rita Russell as a witness. In violation of Rule 26 of the Federal Rules of Civil Procedure, Defendant never previously disclosed Ms. Russell as a potential witness in either SBH's Initial Disclosures or in Defendant's Interrogatory Responses and has provided no indication of what Ms. Russell will testify about, nor has Defendant provided contact information for this witness, as required under Rule 26. Plaintiff has filed motion *in limine* to preclude any testimony by Ms. Russell in Defendant's case-in-chief.

⁹ Plaintiff objects to Defendant's designation of Michael Gonzalez as a witness. In violation of Rule 26 of the Federal Rules of Civil Procedure, Defendant never previously disclosed Mr. Gonzalez as a potential witness in either SBH's Initial Disclosures or in Defendant's Interrogatory Responses and has provided no indication of what Mr. Gonzalez will testify about, nor has Defendant provided contact information for this witness, as required under Rule 26. Plaintiff has filed a motion *in limine* to preclude any testimony by Mr. Gonzalez in Defendant's case-in-chief.

The Hospital reserves the right to introduce excerpts of Duarte's deposition testimony on cross-examination to the extent inconsistent with her trial testimony or needed to prove the Hospital's defenses. The Hospital also reserves the right to introduce deposition testimony of Rosa Torres, Michael Gonzalez, and Sylvia Dolman on cross-examination to the extent inconsistent with her trial testimony or needed to prove the Hospital's defenses. Additionally, the Hospital also reserves its right to call any witness identified by Duarte and to call additional witnesses for rebuttal purposes if necessary.

IX. PLAINTIFF'S DEPOSITION DESIGNATIONS

In accordance with Honorable Judge Gardephe's Individual Rules and Order dated January 8, 2018, Plaintiff shall separately submit, and/or amend this portion of the Proposed Joint Pre-Trial Order to include, deposition designations, if any, with copies and summaries thereof, on or before January 12, 2018. In response to any deposition testimony designated by Defendant, Plaintiff reserves the right to introduce additional deposition testimony to put Defendant's designated testimony in context and to offer cross-designations to any deposition designations submitted by Defendant.

X. DEFENDANT'S DEPOSITION DESIGNATIONS

In accordance with Honorable Judge Gardephe's Individual Rules and Order dated January 8, 2018, Defendant shall separately submit, and/or amend this portion of the Proposed Joint Pre-Trial Order to include, deposition designations, if any, with copies and summaries

¹⁰ Plaintiff objects to Defendant's designation of Sylvia Dolman as a witness. In violation of Rule 26 of the Federal Rules of Civil Procedure, Defendant never previously disclosed Ms. Dolman as a potential witness in either SBH's Initial Disclosures or in Defendant's Interrogatory Responses and has provided no indication of what Ms. Dolman will testify about, nor has Defendant provided contact information for this witness, as required under Rule 26. Plaintiff has filed a motion *in limine* to preclude any testimony by Ms. Dolman in Defendant's case-in-chief.

thereof, on or before January 12, 2018. In response to any deposition testimony designated by Plaintiff, Defendant reserves the right to introduce additional deposition testimony to put Plaintiff's designated testimony in context and to offer cross-designations to any deposition designations submitted by Plaintiff.

XI. PLAINTIFF'S EXHIBITS¹¹

No exhibit not listed below may be used at trial except (a) for cross-examination purposes or (b) if good cause for its exclusion from the pre-trial order is shown.

Plaintiff reserves the right to: (1) offer all or any portion of any exhibit listed below, including substituting an exhibit for a cleaner copy if one exists; (2) offer and use any of the exhibits listed herein for more than one purpose; (3) not to offer any of the exhibits listed herein; (4) offer any exhibit designated on SBH's exhibit list, whether or not offered by SBH; (5) offer additional exhibits at trial for purposes of cross-examination, impeachment or rehabilitation; (6) offer additional exhibits on rebuttal; and (7) offer documents produced by SBH during the trial, if any, that have not yet been produced.

Exhibit #	Description	Bates Stamp
PX-1	Collective Bargaining Agreement between St. Barnabas Hospital and 1199SEIU, United Healthcare Workers East, covering the period June 1, 2009 through April 30, 2015	SBH000001-000192
PX-2	Letter Dated September 24, 2014 re: Suspension and Termination of Ruth Duarte	SBH000208
PX-3	Letter dated August 12, 2014 re: Step Three Grievance – Ruth Duarte	SBH000219
PX-4	Letter dated August 7, 2014 re: Plaintiff's termination	SBH000223
PX-5	Letter dated July 18, 2014 re: Plaintiff's suspension	SBH000229
PX-6	Defendants' Answer to Plaintiff's Amended Complaint	
PX-7	Defendants' Response to Plaintiff's First Set of Document Demands	
PX-8	Defendants' Response to Plaintiff's First Set of Interrogatories	

¹¹ Defendant's objections to Duarte's exhibits are set forth in Section XI(a).

PX-9	Plaintiff's 2013 Performance Evaluation, dated October 15, 2013	SBH000281-SBH000288
PX-10	Plaintiff's 2012 Performance Evaluation, dated September 25, 2012	SBH001061-SBH001068
PX-11	Plaintiff's 2010 Performance Evaluation, dated September 29, 2010	SBH000301-SBH000310
PX-12	Plaintiff's Comments to 2010 Performance Evaluation	SBH000308
PX-13	Plaintiff's 2009 Performance Evaluation, dated October 23, 2009	SBH000311-SBH000319
PX-14	Plaintiff's 2008 Performance Evaluation, dated July 30, 2008	SBH000320-SBH000327
PX-15	Plaintiff's Orientation Questionnaire	SBH000328-SBH000329
PX-16	Plaintiff's Probationary Evaluation, dated July 9, 2007	SBH000330-SBH000331
PX-17	Plaintiff's 6-month evaluation, dated March 25, 2008	SBH000334
PX-18	Plaintiff's 2011 Performance Evaluation, dated September 13, 2011	SBH000337-SBH000345
PX-19	Plaintiff's rebuttal to her 2011 Performance Evaluation	SBH000346
PX-20	Defendant's January 2015 Rebuttal to Plaintiff's EEOC Charge of Discrimination	SBH000417-000486
PX-21	Plaintiff's Official Warning Notice – Termination, dated August 6, 2014	SBH000632-SBH000633
PX-22	Plaintiff's Official Warning Notice – Written Warning, dated March 5, 2014	SBH000634-SBH000636
PX-23	Plaintiff's Official Warning Notice – Two Day suspension, dated July 15, 2014	SBH000649-SBH000650
PX-24	SBH's Code of Conduct	SBH000449-000470
PX-25	SBH Employee Handbook, dated January 1, 2013	SBH000874-SBH000903
PX-26	SBH's Comprehensive Treatment Plan and Treatment Plan Review	SBH000904
PX-27	SBH Health System Behavioral Health – CTP and TPR Policy	SBH000905-SBH000907
PX-28	SBH's 409: Rules of Conduct/Disciplinary Action	SBH000915-SBH000919
PX-29	Fordham-Tremont Community Mental Health Center Administrative/Human Resources/Clinical Policies and Procedures Manuals	SBH000920-000951
PX-30	Plaintiff's Earnings Statements 2007-2011	SBH000958-SBH000959, SBH000973
PX-31	Plaintiff's Summary Earning Statements 2012-2014	SBH000961-SBH000964
PX-32	Plaintiff's 2014 W-2 form	SBH000965

PX-33	Plaintiff's 2013 W-2 form	SBH000966
PX-34	Plaintiff's 2012 W-2 form	SBH000967
PX-35	Plaintiff's 2011 W-2 form	SBH000968
PX-36	Plaintiff's 2010 W-2 form	SBH000969
PX-37	Plaintiff's 2009 W-2 form	SBH000970
PX-38	New Hire Orientation Agenda	SBH001018
PX-39	Supervisory Note dated April 1, 2014	SBH001023
PX-40	Supervisory Note dated March 26, 2014	SBH001024
PX-41	Supervisory Note dated April 16, 2014	SBH001025
PX-42	Supervisory Note dated April 23, 2014	SBH001026
PX-43	Supervisory Note dated May 1, 2014	SBH001027
PX-44	Supervisory Note dated May 8, 2014	SBH001028
PX-45	Supervisory Note dated May 15, 2014	SBH001029
PX-46	Supervisory Note dated May 22, 2014	SBH001030
PX-47	Supervisory Note dated May 29, 2014	SBH001031
PX-48	Supervisory Note dated June 5, 2014	SBH001032
PX-49	Supervisory Note dated June 19, 2014	SBH001033
PX-50	Supervisory Note dated June 3, 2014	SBH001034
PX-51	Supervisory Note dated June 26, 2014	SBH001035
PX-52	Supervisory Note dated November 13, 2013	SBH001039
PX-53	Supervisory Note dated November 27, 2013	SBH001040
PX-54	Supervisory Note dated November 5, 2013	SBH001041
PX-55	Memorandum dated November 11, 2013 re: Action plan to increase productivity (LOS)	SBH001042
PX-56	Supervisory Note dated December 4, 2013	SBH001043
PX-57	Supervisory Note dated January 28, 2014	SBH001044
PX-58	Supervisory Note dated February 12, 2014	SBH001045
PX-59	Supervisory Note dated February 19, 2014	SBH001046
PX-60	Supervisory Note dated February 26, 2014	SBH001047
PX-61	Handwritten Notes dated March 12, 2013	SBH001048
PX-62	Supervisory Note dated March 19, 2014	SBH001049
PX-63	Email corr between Plaintiff and Milagros re: cancelled visits	SBH001054
PX-64	Supervisory Note dated July 31, 2014	SBH001055- SBH001056
PX-65	Plaintiff's Rebuttal to November 20, 2013 disciplinary notice	SBH001057
PX-66	Email corr between Plaintiff and Milagros re: patient reschedule during official warning days	SBH001058- SBH001059
PX-67	Official Warning Notice – Verbal Warning, dated November 20, 2013	SBH001072- SBH001073

PX-68	Laser Arc Registration Log	SBH000873
PX-69	Progress Note for Patient A dated July 30, 2014 at 9:00 a.m.	SBH001052-0001053
PX-70	Progress Note for Patient B dated July 30, 2014 at 10:30 a.m.	SBH000869-000870
PX-71	Progress Note for Patient A dated July 30, 2014 at 9:30 a.m.	SBH0001071
PX-72	December 11, 2012 Memo re: Grievances	P Supplemental00019 – P Supplemental00021
PX-73	April 1, 2013 Grievance	P Supplemental00022 – P Supplemental00023
PX-74	Email corr between Plaintiff and Patricia Small	P00061
PX-75	Defendant's Supplemental Document Production, letter dated August 18, 2016	
PX-76	Defendant's Supplemental Document Production, letter dated August 19, 2016	
PX-77	Job Requirements and Signed Acknowledgement from Plaintiff	SBH0000408- SBH0000409
PX-78	Plaintiff's Deposition Notice to Defendant St. Barnabas Hospital pursuant to FRCP 30(b)(6), dated May 31, 2016	
PX-79	Defendant's Response and Objections to Plaintiff's Deposition Notice to Defendant St. Barnabas Hospital pursuant to FRCP 30(b)(6), dated July 18, 2016	

XII. DEFENDANT'S EXHIBITS

No exhibit not listed below may be used at trial except (a) for cross-examination purposes or (b) if good cause for its exclusion from the pre-trial order is shown.

SBH reserves the right to: (1) offer all or any portion of any exhibit listed below, including substituting an exhibit for a cleaner copy if one exists; (2) offer and use any of the exhibits listed herein for more than one purpose; (3) not to offer any of the exhibits listed herein; (4) offer any exhibit designated on Duarte's exhibit list, whether or not offered by Duarte; (5) offer additional exhibits at trial for purposes of cross-examination, impeachment or rehabilitation; (6) offer additional exhibits on rebuttal; and (7) offer documents produced by Duarte during the trial, if any, that have not yet been produced.

Documents for Defendant's Case in Chief:¹²

Exhibit #	Description	Bates Stamp
DX-A	Code of Conduct	SBH000449-000470
DX-B	Employee Handbook, effective January 1, 2014	SBH000471-000486
DX-C	Agenda for New Hire Orientation	SBH0001018
DX-D	Plaintiff's signed acknowledgment of New Employee Orientation Program dated July 26, 2007	SBH001020
DX-E	Orientation Questionnaire signed by Plaintiff on July 26, 2007	SBH000376-000377
DX-F	Checklist for Departmental Orientation for New Employees signed and initialed by Plaintiff on April 24, 2008	SBH000332-000333
DX-G	Plaintiff's signed Acknowledgment of Receipt of St. Barnabas Hospital's Corporate Compliance Manual and Code of Conduct dated July 26, 2007	SBH0001021
DX-H	Collective Bargaining Agreement between St. Barnabas Hospital and 1199SEIU, United Healthcare Workers East, covering the period June 1, 2009 through April 30, 2015	SBH000001-000191
DX-I	Administrative/Human Resources/Clinical Policies and Procedures Manual	SBH000920-000957
DX-J	Plaintiff's 2011 Year-End Performance Evaluation	SBH000337-000346
DX-K	Plaintiff's 2012 Year-End Performance Evaluation	SBH001061-001066
DX-L	Plaintiff's 2013 year-end Performance Evaluation	SBH000281-000288
DX-M	Action Plan to Increase Productivity dated November 11, 2013	SBH001042
DX-N	Supervisory Session Notes dated November 13, 2013	SBH001039
DX-O	Verbal Warning to Plaintiff dated November 20, 2013	SBH001072-001073
DX-P	Supervisory Session Notes dated February 12, 2014	SBH001045
DX-Q	Supervisory Session Notes dated February 19, 2014	SBH001046
DX-R	Supervisory Session Notes dated February 26, 2014	SBH001047

¹² Documents containing confidential patient information have been redacted to protect patient confidentiality.

DX-S	Written Warning to Plaintiff dated March 5, 2014	SBH000634-000636
DX-T	Supervisory Session Notes dated June 26, 2014	SBH0001035
DX-U	Two-Day Suspension Notice to Plaintiff dated July 15, 2014	SBH000649-000650
DX-V	Page from Plaintiff's Time Record showing when Plaintiff served two-day suspension	SBH0001079
DX-W	Progress Note for Patient A dated July 30, 2014 at 9:00 a.m.	SBH001052-0001053
DX-X	Progress Note for Patient B dated July 30, 2014 at 10:30 a.m.	SBH000869-000870
DX-Y	Progress Note for Patient A dated July 30, 2014 at 9:30 a.m.	SBH0001071
DX-Z	Laser Arc Patient Registration Report for July 30, 2014	SBH000873
DX-AA	Supervisory Session Notes dated July 31, 2014	SBH001055-001056
DX-BB	Notice of Termination of Plaintiff's Employment dated August 6, 2014	P Supplemental 0001-0002
DX-CC	Client Complaint dated November 11, 2011	SBH001036
DX-DD	Client Complaint [undated]	SBH001037
DX-EE	List of Items Returned to Plaintiff Post-Termination of Employment	SBH001082
DX-FF	Emails Containing Confidential Patient Information	P Supplemental 0005-0007
DX-GG	Supervisory Session Notes dated November 5, 2013	SBH001041
DX-HH	Supervisory Session Note dated December 4, 2013	SBH001043
DX-II	Supervisory Session Note dated January 28, 2013	SBH001044
DX-JJ	Employee Handbook, effective January 1, 2013	SBH000874-000903
DX-KK	Employee Handbook, effective December 31, 2008 (relevant excerpts)	SBH000431-000433
DX-LL	Supervisory Session Notes and Emails Produced by Plaintiff (<i>confidential patient information redacted by Defendant</i>)	

XIII. STIPULATIONS AND OBJECTIONS WITH RESPECT TO EXHIBITS

Any objections not set forth herein will be considered waived absent good cause shown.

(a). Defendant objects to Plaintiff's Proposed Exhibits as follows¹³:

Exhibit #	Description	Bates Stamp	Basis for Objection
PX-1	Collective Bargaining Agreement between St. Barnabas Hospital and 1199SEIU, United Healthcare Workers East, covering the period June 1, 2009 through April 30, 2015	SBH000001-000192	No Objection.
PX-2	Letter Dated September 24, 2014 re: Suspension and Termination of Ruth Duarte	SBH000208	Objection, relevance, FRE 403
PX-3	Letter dated August 12, 2014 re: Step Three Grievance – Ruth Duarte	SBH000219	Objection, relevance, FRE 403
PX-4	Letter dated August 7, 2014 re: Plaintiff's termination	SBH000223	Objection, relevance, FRE 403
PX-5	Letter dated July 18, 2014 re: Plaintiff's suspension	SBH000229	Objection, relevance, FRE 403
PX-6	Defendants' Answer to Plaintiff's Amended Complaint		Objection, to the extent Plaintiff offers the Answer for any purpose other than admissions contained therein – relevance, FRE 401, 403, Hearsay, FRE 801
PX-7	Defendants' Response to Plaintiff's First Set of Document Demands		Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-8	Defendants' Response to Plaintiff's First Set of Interrogatories		Objection, to the extent Plaintiff offers the Answer for any purpose other than admissions contained therein – relevance, FRE 401, 403, Hearsay, FRE 801

¹³ Defendant's *In Limine* Motion further addresses its objections to certain of Plaintiff's proposed exhibits.

PX-9	Plaintiff's 2013 Performance Evaluation, dated October 15, 2013	SBH000281-SBH000288	No Objection.
PX-10	Plaintiff's 2012 Performance Evaluation, dated September 25, 2012	SBH001061-SBH001068	No Objection.
PX-11	Plaintiff's 2010 Performance Evaluation, dated September 29, 2010	SBH000301-SBH000310	Objection, relevance – FRE 401, 403, FRE, FRE 801
PX-12	Plaintiff's Comments to 2010 Performance Evaluation	SBH000308	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-13	Plaintiff's 2009 Performance Evaluation, dated October 23, 2009	SBH000311-SBH000319	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-14	Plaintiff's 2008 Performance Evaluation, dated July 30, 2008	SBH000320-SBH000327	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-15	Plaintiff's Orientation Questionnaire	SBH000328-SBH000329	No Objection.
PX-16	Plaintiff's Probationary Evaluation, dated July 9, 2007	SBH000330-SBH000331	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-17	Plaintiff's 6-month evaluation, dated March 25, 2008	SBH000334	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-18	Plaintiff's 2011 Performance Evaluation, dated September 13, 2011	SBH000337-SBH000345	No Objection.
PX-19	Plaintiff's rebuttal to her 2011 Performance Evaluation	SBH000346	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-20	Defendant's January 2015 Rebuttal to Plaintiff's EEOC Charge of Discrimination	SBH000417-000486	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-21	Plaintiff's Official Warning Notice – Termination, dated August 6, 2014	SBH000632-SBH000633	No Objection.
PX-22	Plaintiff's Official Warning Notice – Written Warning, dated March 5, 2014	SBH000634-SBH000636	No Objection.
PX-23	Plaintiff's Official Warning Notice – Two	SBH000649-SBH000650	No Objection.

	Day suspension, dated July 15, 2014		
PX-24	SBH's Code of Conduct	SBH000449-000470	No Objection.
PX-25	SBH Employee Handbook, dated January 1, 2013	SBH000874-SBH000903	No Objection.
PX-26	SBH's Comprehensive Treatment Plan and Treatment Plan Review	SBH000904	No Objection.
PX-27	SBH Health System Behavioral Health – CTP and TPR Policy	SBH000905-SBH000907	No Objection.
PX-28	SBH's 409: Rules of Conduct/Disciplinary Action	SBH000915-SBH000919	No Objection.
PX-29	Fordham-Tremont Community Mental Health Center Administrative/Human Resources/Clinical Policies and Procedures Manuals	SBH000920-000951	No Objection.
PX-30	Plaintiff's Earnings Statements 2007-2011	SBH000958-SBH000959, SBH000973	No Objection.
PX-31	Plaintiff's Summary Earning Statements 2012-2014	SBH000961-SBH000964	No Objection
PX-32	Plaintiff's 2014 W-2 form	SBH000965	No Objection.
PX-33	Plaintiff's 2013 W-2 form	SBH000966	No Objection.
PX-34	Plaintiff's 2012 W-2 form	SBH000967	No Objection.
PX-35	Plaintiff's 2011 W-2 form	SBH000968	No Objection.
PX-36	Plaintiff's 2010 W-2 form	SBH000969	No Objection.
PX-37	Plaintiff's 2009 W-2 form	SBH000970	No Objection.
PX-38	New Hire Orientation Agenda	SBH001018	No Objection.
PX-39	Supervisory Note dated April 1, 2014	SBH001023	No Objection.
PX-40	Supervisory Note dated March 26, 2014	SBH001024	No Objection.
PX-41	Supervisory Note dated April 16, 2014	SBH001025	No Objection.
PX-42	Supervisory Note dated April 23, 2014	SBH001026	No Objection.
PX-43	Supervisory Note dated May 1, 2014	SBH001027	No Objection.

PX-44	Supervisory Note dated May 8, 2014	SBH001028	No Objection.
PX-45	Supervisory Note dated May 15, 2014	SBH001029	No Objection.
PX-46	Supervisory Note dated May 22, 2014	SBH001030	No Objection.
PX-47	Supervisory Note dated May 29, 2014	SBH001031	No Objection.
PX-48	Supervisory Note dated June 5, 2014	SBH001032	No Objection.
PX-49	Supervisory Note dated June 19, 2014	SBH001033	No Objection.
PX-50	Supervisory Note dated June 3, 2014	SBH001034	No Objection.
PX-51	Supervisory Note dated June 26, 2014	SBH001035	No Objection.
PX-52	Supervisory Note dated November 13, 2013	SBH001039	No Objection.
PX-53	Supervisory Note dated November 27, 2013	SBH001040	No Objection.
PX-54	Supervisory Note dated November 5, 2013	SBH001041	No Objection.
PX-55	Memorandum dated November 11, 2013 re: Action plan to increase productivity (LOS)	SBH001042	No Objection.
PX-56	Supervisory Note dated December 4, 2013	SBH001043	No Objection.
PX-57	Supervisory Note dated January 28, 2014	SBH001044	No Objection.
PX-58	Supervisory Note dated February 12, 2014	SBH001045	No Objection.
PX-59	Supervisory Note dated February 19, 2014	SBH001046	No Objection.
PX-60	Supervisory Note dated February 26, 2014	SBH001047	No Objection.
PX-61	Handwritten Notes dated March 12, 2013	SBH001048	No Objection.
PX-62	Supervisory Note dated March 19, 2014	SBH001049	No Objection.
PX-63	Email corr between Plaintiff and Milagros re: cancelled visits	SBH001054	Objection, relevance – FRE 401, 403, Hearsay, FRE 801.
PX-64	Supervisory Note dated July 31, 2014	SBH001055-SBH001056	No Objection.

PX-65	Plaintiff's Rebuttal to November 20, 2013 disciplinary notice	SBH001057	Objection, relevance – FRE 401, 403, Hearsay, FRE 801
PX-66	Email corr between Plaintiff and Milagros re: patient reschedule during official warning days	SBH001058-SBH001059	Objection, relevance – FRE 401, 403, Hearsay, FRE 801.
PX-67	Official Warning Notice – Verbal Warning, dated November 20, 2013	SBH001072-SBH001073	No Objection.
PX-68	Laser Arc Registration Log	SBH000873	No Objection.
PX-69	Progress Note for Patient A dated July 30, 2014 at 9:00 a.m.	SBH001052-0001053	No Objection.
PX-70	Progress Note for Patient B dated July 30, 2014 at 10:30 a.m.	SBH000869-000870	No Objection.
PX-71	Progress Note for Patient A dated July 30, 2014 at 9:30 a.m.	SBH0001071	No Objection.
PX-72	December 11, 2012 Memo re: Grievances	P Supplemental00019 – P Supplemental00021	Objection, relevance – FRE 401, 403, Hearsay, FRE 801. Subject to Defendant's motion <i>in limine</i> (Dkt. No. 65).
PX-73	April 1, 2013 Grievance	P Supplemental00022 – P Supplemental00023	Objection, relevance – FRE 401, 403, Hearsay, FRE 801. Subject to Defendant's motion <i>in limine</i> (Dkt. No. 65).
PX-74	Email corr between Plaintiff and Patricia Small	P00061	Objection, relevance – FRE 401, 403, Hearsay, FRE 801.
PX-75	Defendant's Supplemental Document Production, letter dated August 18, 2016		Object to the extent that Plaintiff offers the Answer for any purpose other than admissions contained therein – relevance FRE 401, 403, hearsay, FRE 801, best evidence – FRE 1002
PX-76	Defendant's Supplemental Document Production, letter dated August 19, 2016		Object to the extent that Plaintiff offers the Answer for any purpose other than admissions contained therein – relevance FRE 401, 403, hearsay, FRE 801, best evidence – FRE 1002

PX-77	Job Requirements and Signed Acknowledgement from Plaintiff	SBH0000408-SBH0000409	No Objection.
PX-78	Plaintiff's Deposition Notice to Defendant St. Barnabas Hospital pursuant to FRCP 30(b)(6), dated May 31, 2016		Object to the extent that Plaintiff offers the Answer for any purpose other than admissions contained therein – relevance FRE 401, 403, hearsay, FRE 801, best evidence – FRE 1002
PX-79	Defendant's Response and Objections to Plaintiff's Deposition Notice to Defendant St. Barnabas Hospital pursuant to FRCP 30(b)(6), dated July 18, 2016		Object to the extent that Plaintiff offers the Answer for any purpose other than admissions contained therein – relevance FRE 401, 403, hearsay, FRE 801, best evidence – FRE 1002

(b). Plaintiff objects to Defendant's Proposed Exhibits as follows:

Exhibit #	Description	Bates Stamp	Basis for Objection
DX-A	Code of Conduct	SBH000449-000470	No Objection.
DX-B	Employee Handbook, effective January 1, 2014	SBH000471-000486	No Objection.
DX-C	Agenda for New Hire Orientation	SBH0001018	No Objection.
DX-D	Plaintiff's signed acknowledgment of New Employee Orientation Program dated July 26, 2007	SBH001020	Objection – relevance FRE 401, 403;
DX-E	Orientation Questionnaire signed by Plaintiff on July 26, 2007	SBH000376-000377	Objection – relevance FRE 401, 403; lack of foundation FRE 901
DX-F	Checklist for Departmental Orientation for New Employees signed and initialed by Plaintiff on April 24, 2008	SBH000332-000333	Objection – relevance FRE 401, 403; lack of foundation FRE 901
DX-G	Plaintiff's signed Acknowledgment of Receipt of St. Barnabas Hospital's Corporate Compliance Manual and Code of Conduct dated July 26, 2007	SBH0001021	Objection – relevance FRE 401, 403
DX-H	Collective Bargaining Agreement between St. Barnabas Hospital and 1199SEIU, United Healthcare Workers East, covering the period	SBH000001-000191	No Objection.

	June 1, 2009 through April 30, 2015		
DX-I	Administrative/Human Resources/Clinical Policies and Procedures Manual	SBH000920-000957	No Objection.
DX-J	Plaintiff's 2011 Year-End Performance Evaluation	SBH000337-000346	No Objection.
DX-K	Plaintiff's 2012 Year-End Performance Evaluation	SBH001061-001066	No Objection.
DX-L	Plaintiff's 2013 year-end Performance Evaluation	SBH000281-000288	No Objection.
DX-M	Action Plan to Increase Productivity dated November 11, 2013	SBH001042	No Objection.
DX-N	Supervisory Session Notes dated November 13, 2013	SBH001039	No Objection.
DX-O	Verbal Warning to Plaintiff dated November 20, 2013	SBH001072-001073	No Objection.
DX-P	Supervisory Session Notes dated February 12, 2014	SBH001045	No Objection.
DX-Q	Supervisory Session Notes dated February 19, 2014	SBH001046	No Objection.
DX-R	Supervisory Session Notes dated February 26, 2014	SBH001047	No Objection
DX-S	Written Warning to Plaintiff dated March 5, 2014	SBH000634-000636	No Objection.
DX-T	Supervisory Session Notes dated June 26, 2014	SBH0001035	No Objection.
DX-U	Two-Day Suspension Notice to Plaintiff dated July 15, 2014	SBH000649-000650	No Objection.
DX-V	Page from Plaintiff's Time Record showing when Plaintiff served two-day suspension	SBH0001079	No Objection.
DX-W	Progress Note for Patient A dated July 30, 2014 at 9:00 a.m.	SBH001052-0001053	No Objection.
DX-X	Progress Note for Patient B dated July 30, 2014 at 10:30 a.m.	SBH000869-000870	No Objection.
DX-Y	Progress Note for Patient A dated July 30, 2014 at 9:30 a.m.	SBH0001071	No Objection.
DX-Z	Laser Arc Patient Registration Report for July 30, 2014	SBH000873	No Objection.
DX-AA	Supervisory Session Notes dated July 31, 2014	SBH001055-001056	No Objection.
DX-BB	Notice of Termination of Plaintiff's Employment dated August 6, 2014	P Supplemental 0001-0002	No Objection.
DX-CC	Client Complaint dated November 11, 2011	SBH001036	Objection – relevance FRE 401, 403; hearsay

			FRE 801; lack of foundation FRE 901
DX-DD	Client Complaint [undated]	SBH001037	Objection – relevance FRE 401, 403; hearsay FRE 801; lack of foundation FRE 901
DX-EE	List of Items Returned to Plaintiff Post-Termination of Employment	SBH001082	Objection – relevance FRE 401, 403; hearsay FRE 801; lack of foundation FRE 901
DX-FF	Emails Containing Confidential Patient Information	P Supplemental 0005-0007	Objection – hearsay FRE 801; lack of foundation FRE 901
DX-GG	Supervisory Session Notes dated November 5, 2013	SBH001041	No Objection.
DX-HH	Supervisory Session Notes dated December 4, 2013	SBH001043	No Objection.
DX-II	Supervisory Session Notes dated January 28, 2014	SBH001044	No Objection.
DX-JJ	Employee Handbook, effective January 1, 2013	SBH000874-000903	No Objection
DX-KK	Employee Handbook, effective December 31, 2008 (relevant excerpts)	SBH000155, SBH000172-73	No Objection.
DX-LL	Supervisory Session Notes and Emails Produced by Plaintiff (<i>confidential patient information redacted by Defendant</i>)		Objection - hearsay FRE 801; lack of foundation FRE 901

Dated: New York, New York
January 12, 2018

NESENOFF & MILTENBERG, LLP

EPSTEIN BECKER & GREEN, P.C.

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SO ORDERED

New York, New York
Dated: _____, 2018

Hon. Paul G. Gardephe
U.S.D.C